

REMARKS

In the Office Action, claims 1-9, 11-16, 19-24 and 30-37 were rejected. By the present Response, claims 1 and 2 are amended. Upon entry of the amendments, claims 1-9, 11-16, 19-24 and 30-37 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Rejections Under 35 U.S.C. § 101

In the Office Action, claims 1-9 and 11-16 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Examiner stated that “the claims do not recite any particular structure to constitute a “system”.” While not conceding to the correctness of the rejection, Applicants have nonetheless amended independent claim 1 so as to overcome the rejection and advance prosecution of the present case. Accordingly, Applicants request the Examiner to enter the amendment and withdraw the rejection of claims 1-9 and 11-16.

Rejections Under 35 U.S.C. § 112

In the Office Action, claims 1-9 and 11-16 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. As stated above, the Examiner asserted that “these claims are directed to a system without any structure.” Again, Applicants do concede to the correctness of the rejection, however to overcome the rejection and advance prosecution of the present case the Applicants have amended independent claim 1. Accordingly, Applicants request the Examiner to withdraw the rejection of claims 1-9 and 11-16.

Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-4, 6, 11, 13, 15, 19, 21 and 30-34 under 35 U.S.C. § 102 as being anticipated by Langseth et al. (U.S. Patent No. 6,694,316, hereinafter “Langseth”). Applicants traverse this rejection.

Anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Applicants respectfully submit that the rejection of independent claims 1, 19 and 30 under Section 102 as being anticipated by Langseth is improper because the cited reference fails to disclose each and every element recited by the claims. For example, independent claims 1 and 30 recite systems enabling “a customer to access the system electronically via the electronic communication device and create a standing order of a *customer specified duration*.” (Emphasis added.) Similarly, independent claim 19 recites a computer program adapted to “enable a customer to access the electronic information system and input electronically a desired product, good, or service for periodic delivery to a specified customer location under a standing order of a *customer specified duration*.” (Emphasis added.)

In contrast, Langseth discloses a system adapted to deliver a plurality of channels, such as sports channels, weather channels, travel channels and so forth, for which users may buy subscriptions having preset specified durations. Particularly, the Examiner cited the following portions of Langseth:

After the user is passed to the subscription interface, in step 906, the PIN enables the subscriber to subscribe to one or more channels and to one or services for each of the one or more channels. The channels to which the subscriber may enlist may be related to the affiliate in some manner. For example, a sports web site may only desire to have subscribers that subscribe to the PIN through that site be able to sign up for a sports channel. Additionally, as described below, an affiliate may have its own channel that is only available to users that subscribe through that affiliate. Affiliates may also be able to specify which services are available from each channel for its subscribers.

Next, step 908 may be performed. In step 908, subscribers may be charged a fee for subscribing to PIN services. A plurality of subscription charging methods may be employed in step 908 including a fee per service, a fee per channel, an annual fee, a monthly fee, a fee per alert, multi-tiered billing etc. Different fees may be charged depending on the output device to which the user desires output. For example, fees for wired devices such as telephones may be greater than to a wireless device. Also, if monthly fees are charged, the fees may be pro rated depending on when the user subscribes or terminates a subscription in the monthly billing cycle for the service. Many billing methodologies exist for services today and any such methodologies may be used with the present invention. As described below, the subscription interface may comprise a subscription transaction processing module that performs initial charging and periodic billing as well. Langseth, col. 26, lines 24-52, (Emphasis added.)

Langseth, col. 26, lines 24-51.

Accordingly, the reference fails to disclose a standing order of a customer specified duration because the specified durations listed above, as provided by the system disclosed by Langseth, are *set in advance by the service provider*. At best, the system disclosed by Langseth provides choices of types of subscriptions from which a customer can select. However, there is no disclosure in Langseth indicating that the customer may have the ability to specify the duration for each particular subscription. Therefore, Langseth does not disclose the claimed systems enabling a customer to access the system electronically via the electronic communication device and create a standing order of customer specified duration, as recited by independent claims 1 and 30, and as similarly recited by independent claim 19.

For at least these reasons, the Applicants respectfully submit that independent claims 1, 19 and 30 (and the claims dependent thereon) are not anticipated by Langseth. Accordingly, the Applicants respectfully request the withdrawal of the

rejection of claims 1-4, 6, 11, 13, 15, 19, 21 and 30-34 under Section 102 based on Langseth.

Rejections Under 35 U.S.C. § 103

In the Office Action, claims 5, 7-9, 12, 14, 16, 20, 22-24 and 36-37 were rejected under 35 U.S.C. § 103(a) as being obvious over Langseth in view of other secondary references and use of Official Notice by the Examiner. Applicants traverse these rejections.

Applicants respectfully submit that claims 5, 7-9, 12, 14, 16, 20, 22-24 and 36-37 are allowable based on their dependencies from independent claims 1, 19 and 30, respectively, because the other secondary references, as well as, the Official Notice asserted by the Examiner do not cure the deficiencies described above in regard to the Langseth reference. For at least these reasons, Applicants respectfully assert that the Examiner has clearly not established a *prima facie* case of obviousness with regard to claims 5, 7-9, 12, 14, 16, 20, 22-24 and 36-37. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection and allow claims 5, 7-9, 12, 14, 16, 20, 22-24 and 36-37.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: 2/23/2007

79
Patrick S. Yoder
Reg. No. 37,479
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545